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**Diversified Bank Installations, Inc. and its Alter Ego  
Atm Works, Inc. and International Association  
of Bridge, Structural and Ornamental Iron  
Workers, Local Union 512.** Case 18-CA-13928  
May 23, 2000

**SUPPLEMENTAL DECISION AND ORDER**

BY MEMBERS FOX, LIEBMAN, AND HURTGEN

On September 26, 1997, the National Labor Relations Board issued a Decision and Order,<sup>1</sup> *inter alia*, ordering Diversified Bank Installations, Inc., (DBI) to make whole unit employee Scott Harrington for loss of earnings and other benefits resulting from his discharge, and to make whole all bargaining unit employees and the Union fringe benefit funds for loss of earnings and other benefits resulting from its failure to abide by the terms and conditions of its collective-bargaining agreement with the Union in violation of the National Labor Relations Act. On March 26, 1999, the United States Court of Appeals for the Eighth Circuit enforced the Board's Decision and Order.

A controversy having arisen over the amount of backpay and reimbursement due the unit employees and contributions owed the fringe benefit funds, on February 29, 2000, the Regional Director for Region 18 issued a compliance specification and notice of hearing alleging the amount due under the Board's Order, and notifying the Respondent that it should file a timely answer complying with the Board's Rules and Regulations. Although properly served with a copy of the compliance specification, the Respondent failed to file an answer.<sup>2</sup>

By letter dated March 23, 2000, the Acting Regional Attorney advised the Respondent that no answer to the compliance specification had been received and that unless an appropriate answer was filed by March 30, 2000, default summary judgment would be sought. The Respondent filed no answer.

On April 18, 2000, the General Counsel filed with the Board a motion for default summary judgment, with exhibits attached. On April 20, 2000, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent again filed no response. The allegations in the motion and in the compliance specification are therefore undisputed.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

**Ruling on the Motion for Summary Judgment**

Section 102.56(a) of the Board's Rules and Regulations provides that the Respondent shall file an answer within 21 days from service of a compliance specification. Section 102.56(c) of the Board's Rules and Regulations states:

If the respondent fails to file any answer to the specification within the time prescribed by this section, the Board may, either with or without taking evidence in support of the allegations of the specification and without further notice to the respondent, find the specification to be true and enter such order as may be appropriate.

According to the uncontroverted allegations of the motion for default summary judgment, the Respondent, despite having been advised of the filing requirements, has failed to file an answer to the compliance specification. In the absence of good cause for the Respondent's failure to file an answer, we deem the allegations in the compliance specification to be admitted as true, and grant the General Counsel's motion for default summary judgment.<sup>3</sup> Accordingly, we conclude that amounts due the discriminatees and the funds are as stated in the compliance specification and we will order payment by the Respondent of the amounts, plus interest accrued on the amounts to the date of payment.

**ORDER**

The National Labor Relations Board orders that the Respondent, Diversified Bank Installations, Inc. and its alter ego ATM Works, Inc., Lake Elmo, Minnesota, its officers, agents, successors, and assigns, shall make whole the following individuals and funds, by paying them the amounts set forth below, with interest on the backpay owed the individuals as prescribed in *New Horizons for the Retarded*, 283 NLRB 1173 (1987), and any additional amounts accruing on the fund contributions as prescribed in *Merryweather Optical Co.*, 240 NLRB 1213 (1979), minus tax withholdings on the backpay due the individuals required by Federal and state laws:

<sup>1</sup> 324 NLRB 457.

<sup>2</sup> In the compliance specification, the Regional Director named not only DBI as a respondent, but also named ATM Works, Inc. (ATM) as DBI's alter ego.

<sup>3</sup> The allegation in the compliance specification that ATM is DBI's alter ego is uncontroverted. Accordingly, we find that ATM is DBI's alter ego, as alleged.

Scott Harrington	\$35,497.00
Elmer Perkins	1080.00
Chad Ericson	919.00
Jeff Bauer	126.00
Ryan Wente	258.00
Doug Trudeau	96.00
Michael Blaisdell	345.00
Vinh Vo	324.00
Scott Schleif	63.00
Steve Reed	87.00
Tuyen Bui	64.00
Local 512 Fringe Benefits	<u>128,956.00</u>
Total	\$167,815.00

Dated, Washington, D.C. May 23, 2000

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Sarah M. Fox, Member

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Wilma B. Liebman, Member

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Peter J. Hurtgen, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD